

CHAPTER 1179

CONDEMNATION OF PROPERTY — MISCELLANEOUS PROVISIONS

H.F. 2528

AN ACT relating to the condemnation of private property for certain public purposes and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 6B.1, Code 1999, is amended to read as follows:

6B.1 PROCEDURE PROVIDED.

The procedure for the condemnation of private property for works of internal improvement, and for other public projects, uses and, or purposes, unless and except as otherwise provided by law, shall be in accordance with the provisions of this chapter. This chapter shall not apply to the dedication of property to an acquiring agency or to the voluntary negotiation and purchase of property by an acquiring agency.

Sec. 2. Section 6B.2A, subsection 1, Code Supplement 1999, is amended to read as follows:

1. An acquiring agency shall provide written ~~notification~~ notice of a public hearing to each owner and any contract purchaser of record of ~~private property agricultural land~~ that may be the subject of condemnation. The authority under this chapter is not conferred and condemnation proceedings shall not begin unless a good faith effort is made to serve mail and publish the notice as provided in this section on the owner and any contract purchaser of record of the property subject to condemnation. The notice shall be mailed by ordinary mail, not less than thirty days before the date the hearing is held, to the owner and any contract purchaser of record's record of each property or property interest at the owner's and contract purchaser's last known address no less than thirty days as shown in the records of the county auditor not less than seven days nor more than fourteen days prior to the date of mailing. A change in ownership of any such property which is not reflected in the records of the county auditor during the period those records are searched as above provided shall not affect the validity of the notice or any condemnation proceeding commenced on the basis of such notice. The notice shall be given and the public hearing held before adoption of the ordinance, resolution, motion, or other declaration of intent to ~~proceed with fund the final site-specific design for the public improvement, to make the final selection of the route or site location for the public improvement and the acquisition or condemnation, or to acquire or condemn~~, if necessary, all or a portion of the property or an interest in the property for the public improvement. If the location of the public improvement is changed or expanded after the decision has been made to proceed with the public improvement, a notice shall be mailed by ordinary mail no less than thirty days before the adoption of the ordinance, resolution, motion, or other declaration of intent to proceed with a change in the location of the public improvement to the owner and any contract purchaser of record of the land to be acquired or condemned, if necessary, in the new location of the public improvement affected by the change. ~~The notice shall include the statement of individual rights required under section 6B.2B.~~ The mailed notice shall, at a minimum, include the following information:

a. The general nature of the public improvement.

b. ~~The acquiring agency's intended use of the private property~~ A statement of the possibility that the acquiring agency may acquire part or all of the property or interest in the property by condemnation for the public improvement.

c. ~~The process to be followed by the acquiring agency in making the decision to proceed with the public improvement and the acquisition or condemnation fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn~~, if necessary, all or a portion of the property or an interest in the property for public improvement.

d. ~~The time, and place, and manner of a public hearing at which an opportunity is provided for public input into the decision to proceed with the public improvement and the acquisition or condemnation fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.~~

e. ~~The current status in the planning process for the public improvement, including meetings held and decisions made~~ The name, address, and telephone number of the person designated by the acquiring agency as the person to contact regarding the public improvement.

f. A statement of rights of individual property owners with respect to the acquisition of their property and the availability of relocation benefits. The attorney general shall adopt by rule pursuant to chapter 17A a statement of rights which may be used in substantial form by any person required to provide the statement of rights as provided in this section.

Sec. 3. Section 6B.2A, subsections 2 and 3, Code Supplement 1999, are amended by striking the subsections and inserting in lieu thereof the following:

2. The acquiring agency shall cause a notice to be published once in a newspaper of general circulation in the county or city where the agricultural land is located. The notice shall be published at least four but no more than twenty days before the public hearing is held as referred to in subsection 1. The published notice shall, at a minimum, include the following information:

a. The general nature of the public improvement.

b. A statement of the possibility that the acquiring agency may acquire part or all of the property or an interest in the property by condemnation for the public improvement.

c. The process to be followed by the acquiring agency in making the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

d. The time and place of a public hearing at which an opportunity is provided for public input into the decision to fund the final site-specific design for the public improvement, to make the final selection of the route or site location, or to acquire or condemn, if necessary, all or a portion of the property or an interest in the property for the public improvement.

e. The name, address, and telephone number of the contact person regarding the public improvement.

3. If the acquiring agency is a person required to obtain a franchise under chapter 478, compliance with section 478.2 shall satisfy the notice requirements of this section. If the acquiring agency is a person required to obtain a permit under chapter 479, compliance with section 479.5 shall satisfy the notice requirements of this section.¹

4. This section shall not apply to a condemnation of property by the state department of transportation for right-of-way that is contiguous to an existing road right-of-way and necessary for the maintenance, safety improvement, or repair of the existing road.

Sec. 4. Section 6B.2A, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The time deadlines in this section do not apply during the existence of an emergency requiring the construction or repair of public improvements in situations where failure to immediately construct or repair would result in immediate danger to public health, safety, or welfare. The notices required in this section shall be provided to the owner as soon as practicable.

Sec. 5. Section 6B.2B, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The acquiring agency shall make a good faith effort to negotiate with the owner to purchase the private property or property interest before filing an application for condemnation or otherwise proceeding with the condemnation process. An acquiring agency shall not make an offer to purchase the property or property interest that is less than the fair

¹ See chapter 1178, §1 herein

market value the acquiring agency has established for the property or property interest pursuant to the appraisal required in section 6B.45. However, an acquiring agency need not make an offer in excess of that amount in order to satisfy the requirement to negotiate in good faith. An acquiring agency is deemed to have met the requirements of this section if the acquiring agency complies with section 6B.54.

Sec. 6. Section 6B.2B, subsection 2, Code Supplement 1999, is amended by striking the subsection.

Sec. 7. NEW SECTION. 6B.2C APPROVAL OF THE PUBLIC IMPROVEMENT.

The authority to condemn is not conferred, and the condemnation proceedings shall not commence, unless the governing body for the acquiring agency approves the use of condemnation and there is a reasonable expectation the applicant will be able to achieve its public purpose, comply with all applicable standards, and obtain the necessary permits.

Sec. 8. Section 6B.3, subsection 1, paragraph g, Code Supplement 1999, is amended to read as follows:

g. A showing of the minimum amount of land necessary to achieve the public purpose and the amount of land to be acquired by condemnation for the public improvement. Any land to be acquired by condemnation beyond the necessary minimum to complete the project shall be presumed not to be necessary for a public use or public purpose unless the applicant can show that a substantial need exists for the additional property to achieve the public use or public purpose, or that the land in question ~~is of~~ constitutes an uneconomical remnant that has little or no value or utility to the owner, or that the owner consents to the condemnation.

Sec. 9. Section 6B.3, subsection 2, Code Supplement 1999, is amended by striking the subsection and inserting in lieu thereof the following:

2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address and to any record lienholder or encumbrancer of the property at the lienholder's or encumbrancer's last known address. The applicant shall also cause the application to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the application by publication shall be deemed complete on the day of publication.

In lieu of mailing and publishing the application, the applicant may cause the application to be served upon the owner, lienholders, and encumbrancers of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The application shall be mailed and published or served, as above provided, prior to or contemporaneously with the mailing and publication or service of the list of compensation commissioners as provided in section 6B.4.

Sec. 10. Section 6B.4, unnumbered paragraph 2, Code Supplement 1999, is amended to read as follows:

The chief judge of the judicial district ~~or the chief judge's designee~~ shall select by lot six persons from the list, two persons who are owner-operators of agricultural property when the property to be condemned is agricultural property; two persons who are owners of city property when the property to be condemned is other than agricultural property; and two persons from each of the remaining two representative groups, who shall constitute a compensation commission to assess the damages to all property to be taken by the applicant and located in the county, and shall name a chairperson from the persons selected. The chief judge or the judge's designee may appoint such alternate members and chairpersons to the commission as are deemed necessary and appropriate under the circumstances. A person shall not be selected as a member ~~or alternate member~~ of the compensation commission if the person possesses any interest in the proceeding which would cause the person to

render a biased decision. ~~The clerk of the district court shall send, by ordinary mail, a list of those persons selected to the applicant and to the owner of the property at the owner's last known address. The list shall be provided prior to the mailing, by any party, of a notice of assessment under section 6B.8. If the clerk of the district court is unable to locate an address for the owner of the property, the list shall be published once in a newspaper of general circulation in the county. The applicant shall reimburse the clerk of the district court for the cost of mailing and publication. The applicant shall mail a copy of the list of commissioners and alternates appointed by the chief judge by certified mail to the property owner at the owner's last known address. The applicant shall also cause the list of commissioners and alternates to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the list of commissioners and alternates by publication shall be deemed complete on the day of publication. In lieu of mailing and publishing the list of commissioners and alternates, the applicant may cause the list to be served upon the owner of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The list of commissioners and alternates shall be mailed and published or served, as above provided, prior to or contemporaneously with service of the notice of assessment as provided in section 6B.8.~~

Sec. 11. Section 6B.4, unnumbered paragraph 3, Code Supplement 1999, is amended by striking the unnumbered paragraph.

Sec. 12. Section 6B.5, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

6B.5 CHALLENGES TO COMMISSIONERS AND FILLING VACANCIES ON THE COMMISSION.

1. Persons appointed by the chief judge to serve on the compensation commission are excused from the commission if they are removed for cause, stricken by a challenge pursuant to this section, unavailable to serve on the commission, or fail to act in their capacity as commissioners.

2. The applicant may challenge one commissioner without stating cause and the person or persons representing the fee ownership interest in the property may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner shall be filed, in writing, with the sheriff not less than seven days prior to the meeting of the compensation commission, and shall be mailed to the other party by ordinary mail on the day of filing. An alternate commissioner may not be challenged without cause. A challenge filed less than seven days prior to the meeting of the commission shall have no effect.

3. If a person is excused from the commission, the sheriff shall select and notify, not less than twenty-four hours prior to the meeting, the alternate commissioners appointed for that condemnation proceeding, to complete the membership of the commission. Alternate commissioners selected and notified shall have the same qualifications as the person who is being replaced. If no alternates have been appointed, the chief judge of the judicial district shall appoint another person from the list, possessing the same qualifications as the person who is being replaced to complete the membership of the commission.

4. The sheriff shall notify alternate commissioners in the order directed by the chief judge, and the alternate commissioner first notified who is available to serve as a compensation commissioner shall serve in the place of the commissioner who was unable to serve or who was stricken from the panel.

5. If a person is excused from the commission, the applicant and the property owner may stipulate in writing to the selection and notification of a particular alternate having the same qualifications as the person who is being replaced, to complete the membership of the commission. Such stipulation shall be filed with the sheriff not less than seventy-two hours prior to the meeting of the commission.

Sec. 13. NEW SECTION. 6B.6 SHERIFF TO COORDINATE MEETING OF COMMISSIONERS AND PROVIDE MEETING PLACE.

The sheriff of the county in which the property to be condemned is located shall coordinate the meeting of commissioners, shall arrange an appropriate meeting place for commissioners, shall assure that appointed commissioners receive the order of the court appointing them and directing their attendance at the meeting of commissioners, and shall report the unavailability or absence of appointed commissioners to the chief judge, to the applicant, and to the landowner.

Sec. 14. Section 6B.7, Code Supplement 1999, is amended to read as follows:

6B.7 COMMISSIONERS TO QUALIFY.

~~Before proceeding with the assessment meeting to assess the damages for the taking, all commissioners shall qualify by filing with the sheriff a written oath that they will to the best of their ability faithfully and impartially assess damages and make a written report containing the information used by the commission in assessing the damages to the sheriff. The applicant or the owner may challenge one commissioner without stating cause. A challenge to the appointment of a commissioner must be made to the chief judge of the judicial district no less than seventy-two hours before the condemnation jury is set to meet. A commissioner shall be appointed to fill a vacancy resulting from a challenge no less than twenty-four hours before the jury is set to meet.~~

Sec. 15. Section 6B.8, Code Supplement 1999, is amended to read as follows:

6B.8 NOTICE OF ASSESSMENT.

The applicant, or the owner or any lienholder or encumbrancer of any land described in the application, may, at any time after the appointment of the commissioners, have the damages to the lands of any such owner assessed by giving the other party, if a resident of this state, thirty days' notice, in writing. The notice shall specify the day and the hour when the commissioners compensation commission will meet, view the premises, and assess the damages. The notice shall be personally served upon all necessary parties in the same manner as original notices provided by the Iowa rules of civil procedure for the personal service of original notice. If a city or county, or an agency of a city or county, is seeking to condemn agricultural land for an industry as that term is defined in section 260E.2, the notice shall inform the landowner that the landowner may request that the compensation commission review the application as provided in section 6B.4A.

~~Service of the notice to a person not a resident of this state shall be by certified mail to the person's last known address. At the same time, the applicant shall cause a notice to be published once in a newspaper of general circulation in the county prior to the day fixed for the appraisal, which day shall be at least thirty days after publication. Service of notice in this manner shall be deemed complete on the day of publication.~~

Sec. 16. Section 6B.14, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The commissioners shall, at the time fixed in the aforesaid notices, view the land sought to be condemned and assess the damages which the owner will sustain by reason of the appropriation; ~~and they.~~ The commission shall file their its written report, signed by all commissioners, with the sheriff. At the request of the condemner or the condemnee, the commission shall divide the damages into parts to indicate the value of any dwelling, the value of the land and improvements other than a dwelling, and the value of any additional damages. The appraisal and return may be in parcels larger than forty acres belonging to one person and lying in one tract, unless the agent or attorney of the applicant, or the commissioners, have actual knowledge that the tract does not belong wholly to the person in whose name it appears of record; and in case of such knowledge, the appraisal shall be made of the different portions as they are known to be owned.

Sec. 17. Section 6B.14, Code Supplement 1999, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings. The commissioners shall meet in open session to view the property and to receive evidence, but may deliberate in closed session. After deliberations commence, the commission and each commissioner is prohibited from communicating with any party to the proceeding, unless such communication occurs in the presence of or with the consent of the property owner and the other parties who appeared before the commission. The commission shall keep minutes of all its meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 18. Section 6B.25, Code 1999, is amended to read as follows:

6B.25 RIGHT TO TAKE POSSESSION OF LANDS — TITLE.

Upon the filing of the commissioners' report with the sheriff, the applicant may deposit with the sheriff the amount assessed in favor of a claimant, and the applicant, except as otherwise provided, may take possession of the land condemned and proceed with the improvement. An appeal from the assessment does not affect the right, except as otherwise provided. Prior to expiration of the time provided for appeal, the property owner may apply to the district court for release of that part of the damages deposited which the court finds proper. If there is not an appeal by any party, the property owner shall be entitled to the whole of the damages awarded. Upon appeal from the commissioners' award of damages the district court may direct that the part of the amount of damages deposited with the sheriff, as it finds just and proper, be paid to the claimant. If upon trial of the appeal a lesser amount is awarded the difference between the amount so awarded and the amount paid shall be repaid by the person to whom it was paid and upon failure to make the repayment the party shall have judgment entered against the person who received the excess payment. Title to the property or the interests in property passes to the applicant when damages have been finally determined and paid.

Sec. 19. Section 6B.33, Code Supplement 1999, is amended to read as follows:

6B.33 COSTS AND ATTORNEY FEES.

The applicant shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The applicant shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of fifty two hundred dollars and actual and necessary expenses incurred in the performance of their official duties. The applicant shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The applicant shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the applicant. The applicant shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial thereof the same or a lesser amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 20. Section 6B.45, Code Supplement 1999, is amended to read as follows:

6B.45 MAILING COPY OF APPRAISAL.

When any real property or interest in real property is to be purchased, or in lieu thereof to be condemned, the acquiring agency or its agent shall submit to the person, corporation, or

entity whose property or interest in the property is to be taken, by ordinary mail, at least ten days prior to the date of ~~contact upon which the acquiring agency or its agent contacts the property owner to commence negotiations~~, a copy of the appraisal in its entirety upon such real property or interest in such real property prepared for the acquiring agency or its agent, which shall include, at a minimum, an itemization of the appraised value of the real property or interest in the property, any buildings on the property, all other improvements including fences, severance damages, and loss of access. The appraisal sent to the condemnee shall be that appraisal upon which the condemnor will rely to establish an amount which the condemnor believes to be just compensation for the real property. All other appraisals made on the property as a result of the condemnation proceeding shall be made available to the condemnee upon request. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days prior to negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component. An acquiring agency may obtain a signed written waiver from the landowner to allow negotiations to commence prior to the expiration of the applicable waiting period for the commencement of negotiations.

Sec. 21. Section 6B.57, Code Supplement 1999, is amended to read as follows:
6B.57 PROCEDURAL COMPLIANCE.

If ~~a city~~ an acquiring agency makes a good faith effort to serve, send, or provide the notices or documents required under this chapter to the owner and any contract purchaser of private property that is or may be the subject of condemnation, but fails to provide the notice or documents to the owner and any contract purchaser, such failure shall not constitute grounds for invalidation of the condemnation proceeding if the chief judge of the judicial district determines that such failure can be corrected by delaying the condemnation proceedings to allow compliance with the requirement ~~and~~ or such failure does not unreasonably prejudice the owner or any contract purchaser.

Sec. 22. Section 478.2, unnumbered paragraphs 2 and 5, Code 1999, are amended to read as follows:

As conditions precedent to the filing of a petition with the utilities board requesting a franchise for a new transmission line, and not less than thirty days prior to the filing of such petition, the person, company, or corporation shall hold informational meetings in each county in which real property or rights therein will be affected. A member of the board, the counsel of the board, or a hearing examiner designated by the board shall serve as the presiding officer at each meeting ~~and~~ shall present an agenda for such meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A, subsection 1. ~~No~~ A formal record of the meeting shall not be required.

The notice shall set forth the name of the applicant; state the applicant's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right-of-way right-of-way desired; state the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; provide a map showing the route of the proposed project; provide a description of the process used by the utilities board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; advise that the landowner has the right to be present at such meetings and to file objections with the utilities board; designate the place and time of the meeting; be served not less than thirty days prior to the time set for the meeting by certified mail with return receipt requested; and be published once in a newspaper of general circulation in the county at least one week and not more than three weeks before the time of the meeting and such publication shall be considered notice to landowners whose residence is not known.

Sec. 23. Section 478.6, unnumbered paragraph 2, Code 1999, is amended to read as follows:

Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of ~~said~~ the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to section 6B.2A, subsection 1.

Sec. 24. Section 479.5, unnumbered paragraphs 3 and 6, Code 1999, are amended to read as follows:

A pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board or a person designated by the board shall serve as the presiding officer at each meeting ~~and, shall~~ present an agenda for the meeting which shall include a summary of the legal rights of the affected landowners, ~~and shall distribute and review the statement of individual rights required under section 6B.2A.~~ No A formal record of the meeting shall not be required.

The notice shall set forth the name of the applicant; the applicant's principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; a map showing the route of the proposed project; a description of the process used by the utilities board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting; ~~and, The notice~~ shall be served by certified mail with return receipt requested not less than thirty days previous to the time set for the meeting; and shall be published once in a newspaper of general circulation in the county. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

Sec. 25. Section 479.7, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to section 6B.2A.

Sec. 26. Section 479.46, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 27. Section 479A.25, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 28. Section 479B.30, subsection 3, unnumbered paragraph 2, Code 1999, is amended to read as follows:

~~Sections 6B.10 to 6B.13 apply to this notice.~~ If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

Sec. 29. Section 6B.12, Code Supplement 1999, and section 6B.13, Code 1999, are repealed.

Sec. 30. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2000

CHAPTER 1180

REGULATION AND INSPECTION OF HEALTH CARE FACILITIES

S.F. 2144

AN ACT relating to regulation and inspection of health care facilities including the establishment of a quality-based inspections system.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135C.16, subsection 1, Code 1999, is amended to read as follows:

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a ~~fifteen-month~~ thirty-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter 19A the discipline shall not exceed the discipline authorized pursuant to that chapter.

Sec. 2. Section 135C.38, subsection 3, Code Supplement 1999, is amended to read as follows:

3. An inspection made pursuant to a complaint filed under section 135C.37 need not be limited to the matter or matters ~~complained of, however included in the complaint.~~ However, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection or unless in the course of the complaint investigation a violation is evident to the inspector. Upon arrival at the facility to be inspected, the inspector shall show identification to the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or committee, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the